

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**ALLEN F. COWART, JR. and KAY H. )  
COWART; DARLENE BROWN and )  
JOHN WOODARD; SHEILA )  
JACKSON and MICHAEL GARITY; )  
BILMA HALL, WALLACE and )  
SHIRLENE SOMERSET, DEBORAH )  
MOLETTE, and RAMONA GULLEY, )**

**Plaintiffs,**

**v.**

**AMERIQUEST MORTGAGE )  
COMPANY, )**

**Defendant.**

**CASE NUMBER: 1:08-cv-00096-C**

**DEFENDANT'S UNOPPOSED MOTION TO STAY**

**COMES NOW** the defendant, Ameriquest Mortgage Company, and hereby moves this Court to stay this matter pending its anticipated transfer by the Judicial Panel on Multidistrict Litigation. In support thereof, defendant states as follows:

1. On March 12, 2008, the plaintiffs filed a Notice of Potential Tag-Along Action ("Notice") with the Judicial Panel on Multidistrict Litigation. A copy of the Notice is attached hereto as Exhibit "A." By way of the Notice, the plaintiffs have requested that the Judicial Panel transfer this matter to the Northern District of Illinois.

2. Because a number of substantially similar actions have already been transferred to the MDL, the defendant has good reason to believe that the Judicial Panel will enter a Conditional Transfer Order in the near future transferring this matter.

3. In considering whether to stay proceedings pending transfer by the Judicial Panel, the United States District Court for the Southern District of Alabama has stayed proceedings in

similar matters after considering "judicial efficiency" and "avoiding inconsistent results between sister courts."<sup>1</sup> Judge Steele explained: "The presence of a batch of similar motions before the MDL Court also exposes the risk of inconsistent results that would arise were the Court to rule on the motion before it."<sup>2</sup>

4. The plaintiffs consent to the requested stay of this matter.

5. Accordingly, Ameriquest Mortgage Company respectfully requests that this Court stay this matter pending its anticipated transfer to the United States District Court for the Northern District of Illinois by the Judicial Panel on Multidistrict Litigation.

Respectfully submitted,

s/ Stephen J. Bumgarner  
Stephen J. Bumgarner (BUMGS2089)  
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Attorney for Defendant Ameriquest  
Mortgage Company

**OF COUNSEL:**

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<sup>1</sup> See *Thomas v. Ameriquest Mortgage Co.*, Case No. 07-0652-WS-C, 2007 WL 3287842, at \* 1 (S.D. Ala. Nov. 5, 2007); *Boudin v. Residential Essentials, LLC*, Civil Action No. 07-0018-WS-C, 2007 WL 2609510 (S.D. Ala. Sept. 6, 2007); see also *Betts v. Eli Lilly & Co.*, 435 F. Supp.2d 1180, 1182 (S.D. Ala. 2006) (explaining standards considered in reviewing motion to stay).

<sup>2</sup> See *Boudin*, 2007 WL 2609510, at \* 1

**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

James D. Patterson, Esq.  
Earl P. Underwood, Esq.  
21 South Section Street  
Fairhope, AL 36532

Kenneth J. Riemer, Esq.  
P. O. Box 1206  
Mobile, AL 36633

s/ Stephen J. Bumgarner  
Of Counsel

**Exhibit A**

**BEFORE THE JUDICIAL PANEL ON MULTI-DISTRICT  
LITIGATION**

In re: AMERIQUEST MORTGAGE CO.    )  
MORTGAGE LENDING PRACTICES       )  
LITIGATION                               )   MDL Docket No. 1715  
  )

**NOTICE OF POTENTIAL TAG-ALONG ACTION**

PLEASE TAKE NOTICE that, pursuant to J.P.M.L. Rules 7.2(i) and 7.5(e), the undersigned counsel for the plaintiffs gives notice of the following potential tag-along action:

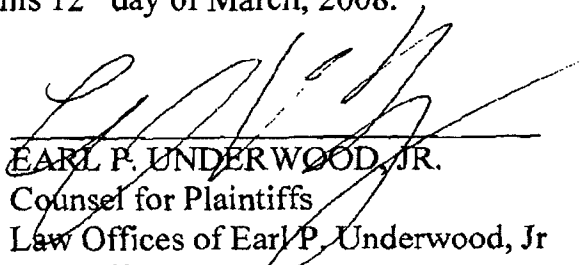
1.    *Allen F. Cowart, Jr. and Kay H. Cowart, et al. v. Ameritrust Mortgage Company*, Case No. 1:08-cv-00096-C (Southern District of Alabama, Southern

Division) Magistrate Judge William E. Cassady,  
presiding. A true and correct copy of the complaint in the  
Tag-along Action is attached as Exhibit A.

Plaintiffs in this Tag-along Action are plaintiffs in the putative  
national class actions transferred by the Panel to the Northern District of  
Illinois for consolidated and coordinated pretrial proceedings (the  
"Borrowers' Consolidated Class). These Tag-along Actions allege the same  
general conduct, claim the same injury and seek the same relief as the  
Borrowers' Consolidated Class Action. Likewise, these Tag-along Actions  
rely upon the same legal theories, require the same or similar factual  
determinations, and are governed by the same law.

Therefore, the Plaintiffs respectfully request that the Panel transfer  
this Tag-along Action to the Northern District of Illinois pursuant to  
J.P.M.L. Rule 7.4.

Respectfully Submitted this 12<sup>th</sup> day of March, 2008.



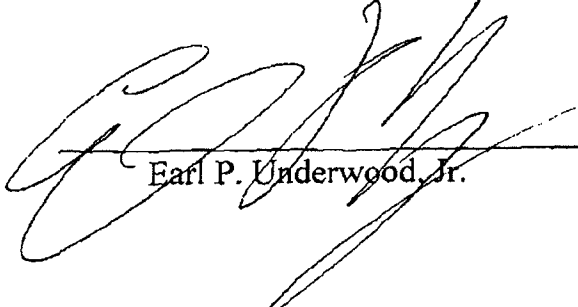
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CERTIFICATE OF SERVICE

I hereby certify that on this the 12<sup>th</sup> day of March, 2008, a copy of the foregoing was served on counsel for all parties to this proceeding by placing a copy of same in the U.S. Mail, properly addressed and first-class postage prepaid to:

Stephen J. Bumgarner  
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